

REMARKS

Careful consideration has been given by the applicant to the Examiner's comments and rejection of the claims as set forth in the outstanding Office Action, and favorable reconsideration and allowance of the application, as amended, is earnestly solicited.

Applicant gratefully notes the Examiner's indication that at least Claims 16-19 have already been allowed.

However, applicant notes the Examiner's rejection of Claims 20, 23 and 26-29 as being essentially product-by-process claims, which do not distinguish over the prior art represented by applicant's assignee's own earlier U.S. patent to Wagenseil, U.S. Patent No. 5,007,332.

However, applicant respectfully takes issue with the foregoing position taken by the Examiner, wherein the latter indicates the applicability of the Thorpe 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In that connection, applicant notes the Examiner's comments that the product-by-process claims, if the same or obvious from a product of the prior art, would be unpatentable, even if the prior product was made by a different process.

However, in this instance, referring to Wagenseil and any other patents known in this particular technology, the product obtained herein, as set forth in the present claims, is completely different and possesses physical features which provide an extensive and highly advantageous improvement over the prior art, as represented by Wagenseil and any other art known to the applicants or that cited by the Examiner.

In particular, applicant notes that pursuant to the current state of the technology, the connection between the piston and the hemispherical joint is implemented through the intermediary of cold-beading of the materials, which results in a relatively hard end product

providing particular limitations with regard to the construction and ductility of the ball and socket joint.

In a surprisingly novel manner, in order to obviate this particular limitation, which is represented by the prior art cited by the Examiner and also the current state of the technology, applicant has employed a unique hot-beading process, which reduces the hardness and improves the ductility relative in comparison with a cold-beading process, so as to impart properties to the ball and socket joint facilitating the assembly and functioning thereof in a manner clearly distinct from that of the prior art.

In support of the foregoing position, setting forth the advantages of the hot-beading process applied and set forth in Claims 20, 23 and 26-29, the inventor herewith submits a Declaration under 37 C.F.R. §1.132 clearly elucidating the particular distinctions and advantages which are derived by the inventive product-by-process claims in comparison with the Wagenseil and the secondary reference to Wiethoff in addition to any other art currently known in this particular technology.

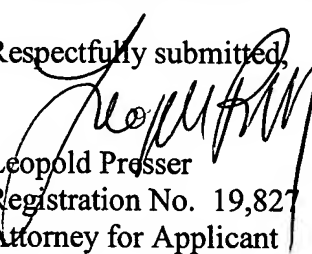
Accordingly, predicated on the further amendment of these claims, which emphasize the advantages distinctions relative to the cold-beading obtained by the inventive hot-beading process and wherein the product obtained by this process, in addition to the allowed method claims, is also inventive over the art, applicant respectfully submits that on the basis of the advantages elucidated by the inventor and the distinctions set forth herein, the product is also clearly distinct over the prior art in being identified by the unique hot-beading process, and wherein the product can be defined primarily by product-by-process claims.

Accordingly, in summation, applicant respectfully submits that in addition to the already allowed Claims 16-19, the remaining claims, 20, 23 and 26-29 are also directed to clearly

allowable and patentable subject matter, and the early and favorable reconsideration of the application on the basis of the foregoing by the Examiner is earnestly solicited.

However, in the event that the Examiner has any queries concerning the instantly submitted Amendment, applicant's attorney respectfully requests that he be accorded the courtesy of possibly a telephone conference to discuss any matters in need of attention.

Respectfully submitted,


Leopold Presser
Registration No. 19,827
Attorney for Applicant

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343
LP:jy

Enclosure (Declaration under 37 C.F.R. §1.132)